

PT 96-11  
Tax Type: PROPERTY TAX  
Issue: Charitable Ownership/Use

STATE OF ILLINOIS  
DEPARTMENT OF REVENUE  
OFFICE OF ADMINISTRATIVE HEARINGS  
SPRINGFIELD, ILLINOIS

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WHITESIDE COUNTY SENIOR	)		
CENTER, INC.	)		
Applicant	)	Docket #	94-98-30
	)	Parcel Index #	390.00
v.	)		
	)	George H. Nafziger	
THE DEPARTMENT OF REVENUE	)	Administrative Law Judge	
OF THE STATE OF ILLINOIS	)		

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RECOMMENDATION FOR DISPOSITION

Synopsis:

This matter concerns the Application for Property Tax Exemption To Board of Review, for Whiteside County parcel No. 390.00, for the 1994 assessment year.

The Illinois Department of Revenue (hereinafter referred to as the "Department") denied the exemption of this parcel for the reason that the Whiteside County Senior Center, Inc. (hereinafter referred to as the "applicant") failed to provide a copy of its exemption certificate issued by the Department for the parcel where the center itself was located.

The issues in this matter include first, whether the applicant owned this parcel during 1994. The second issue is whether this applicant is a charitable organization. The final issue is whether the applicant either was in the process of adapting this parcel for charitable use or actually used this parcel for charitable purposes during all or part of the 1994 assessment year. Following a review of the file in this matter and the documents filed by the applicant, it is determined that the applicant owned this parcel during 1994. It is also determined that the applicant is a charitable organization. Finally it is determined that the applicant was either in the process of adapting this

parcel for charitable purposes or using it for charitable purposes during the period September 30, 1994, through December 31, 1994.

Findings of Fact:

1. On August 29, 1994, the Whiteside County Board of Review transmitted an Application for Property Tax Exemption To Board of Review concerning this parcel for the 1994 assessment year, to the Department.

2. On April 4, 1996, the Department notified the applicant that it was denying the exemption of this parcel for the 1994 assessment year.

3. By a letter dated April 8, 1996, the applicant requested a formal hearing in this matter.

4. By a letter dated May 2, 1996, the applicant requested an office disposition in this matter.

5. The applicant has provided a copy of the Department's determination in Docket No. 87-98-18 exempting the applicant's senior center, building located on an adjacent parcel, for the 1987 assessment year.

6. The construction of the auxiliary building on this parcel began on September 30, 1994. That building was completed and immediately placed in service for the storage of the applicant's vehicles and equipment used at the senior center.

Conclusions of Law:

Article IX, Section 6, of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

35 **ILCS** 200/15-65 provides in part as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:

- (a) institutions of public charity;
- (b) beneficent and charitable organizations incorporated in any state of the United States....

It is well settled in Illinois, that when a statute purports to grant an exemption from taxation, the fundamental rule of construction is that a tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956). Whenever doubt arises, it is to be resolved against exemption, and in favor of taxation. People ex rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1944). Finally, in ascertaining whether or not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption. MacMurray College v. Wright, 38 Ill.2d 272 (1967).

Illinois courts have held property to be exempt from taxation where it has been adequately demonstrated that the property is in the actual process of development and adaptation for exempt use. Illinois Institute of Technology v. Skinner, 49 Ill.2d 59 (1971); People ex rel. Pearsall v. Catholic Bishop of Chicago, 311 Ill. 11 (1924); In re Application of County Collector, 48 Ill.App.3d 572 (1st Dist. 1977); and Weslin Properties, Inc. v. Department of Revenue, 157 Ill.App.3d 580 (2nd Dist. 1987).

Based on the forgoing, I conclude that Whiteside County parcel No. 390.00 qualified for exemption during the period September 30, 1994, through December 31, 1994.

I therefore recommend that Whiteside County parcel No. 390.00 be exempt from real estate tax for 25 percent of the 1994 assessment year.

Respectfully Submitted,

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George H. Nafziger  
Administrative Law Judge  
June ,1996